

United States Postal Service

§ 958.6

§ 958.3 Petition for hearing.

Within 30 days of being served the Postal Service's Complaint alleging liability under 39 U.S.C. 3018, the respondent may request a hearing by filing a written Hearing Petition with the Recorder. The respondent's Petition must include the following:

(a) The words "Petition for Hearing Related to Prohibitions Regarding the Mailing of Hazardous Material" or other words reasonably identifying it as such;

(b) The name of the respondent as well as his or her work and home addresses, and work and home telephone numbers; and other address and telephone number where the respondent may be contacted about the hearing proceedings;

(c) The date on which the respondent received the Complaint issued by the Determining Official;

(d) A statement indicating whether the respondent requests an oral hearing or a decision solely on the written record;

(e) If the respondent requests an oral hearing, a statement proposing a city for the hearing site, with justification for holding the hearing in that city, as well as recommended dates for the hearing; and

(f) A statement admitting or denying each of the allegations of liability made in the Complaint, and stating any defense on which the respondent intends to rely.

§ 958.4 Referral of complaint.

(a) If the respondent fails to request a hearing within the specified period, the Determining Official shall transmit the Complaint to the Judicial Officer for referral to a Presiding Officer, who shall issue an Initial Decision based upon the information contained in the Complaint.

(b) If the respondent files a Hearing Petition, the Determining Official, upon receiving a copy of the Petition, shall promptly transmit to the Presiding Officer a copy of the Postal Service's Complaint.

§ 958.5 Scope of hearing; evidentiary standard.

(a) A hearing under this part shall be conducted by the Presiding Officer on the record:

(1) To determine whether the respondent is liable under 39 U.S.C. 3018, and

(2) If so, to determine the amount of any civil penalties, clean-up costs and/or damages to be imposed.

(b) The Postal Service must prove its case against a respondent by a preponderance of the evidence.

(c) The parties may offer for insertion onto the record such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the Presiding Officer in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 958.6 Notice of docketing and hearing.

(a) Within a reasonable time after receiving the respondent's Hearing Petition and the Complaint, the Presiding Officer shall serve upon the respondent and the Determining Official, a Notice of Docketing and Hearing.

(b) The Notice of Docketing and Hearing required by paragraph (a) of this section may include:

(1) The tentative site, date, and time of the oral hearing, if one is requested;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The nature of the hearing;

(4) The matters of fact and law to be decided;

(5) A description of the procedures governing the conduct of the hearing; and

(6) Such other information as the Presiding Officer deems appropriate.